



1995 SENATE BILL 383

October 25, 1995 - Introduced by Senators BUETTNER, ROSENZWEIG, DARLING, SCHULTZ, PETAK and PANZER, cosponsored by Representatives HARSDORF, URBAN, PROSSER, JENSEN, FREESE, BRANCEL, UNDERHEIM, ALBERS, OURADA, GROTHMAN, PORTER, HAHN, VRAKAS, DUFF, MUSSER, AINSWORTH, WALKER, GROBSCHMIDT, ZIEGELBAUER, SCHNEIDERS, OLSEN, LADWIG, OTT, BRANDEMUEHL, WARD, GREEN, F. LASEE, SERATTI, KREIBICH, PLACHE, GOETSCH, GARD, NASS, KAUFERT, SILBAUGH, LA FAVE and LEHMAN. Referred to Joint survey committee on Tax Exemptions.

1 **AN ACT to create** 71.05 (6) (a) 19., 71.05 (6) (b) 22., 71.07 (5) (a) 7., 71.10 (4) (j),
2 71.10 (10) and 632.898 of the statutes; **relating to:** tax-exempt individual
3 employe medical savings accounts established by employers or self-employed
4 persons with the difference between the cost of catastrophic and comprehensive
5 health care coverage.

Analysis by the Legislative Reference Bureau

This bill provides that if an employer offers its employes a choice of catastrophic or comprehensive health care coverage, the employer may establish a medical savings account (account) for any employe who chooses the catastrophic health care coverage option. If the employer establishes an account, the employer must deposit in the account the difference between what the employer pays for the catastrophic coverage and what the employer would pay for the comprehensive coverage. The account consists exclusively of those deposits and any interest or other gain on the deposits. The account is the property of the employe so that the employe does not lose the account if he or she changes jobs. If the employe does change jobs and his or her new employer also offers employes a choice between catastrophic and comprehensive health care coverage and the employe chooses catastrophic, that employer may also make deposits in the account of the difference in the cost of the 2 types of coverage. The bill also provides that a self-employed person who purchases catastrophic health care coverage may establish a medical savings account for himself or herself and deposit into it the difference between what he or she pays for the catastrophic coverage and what he or she would pay for comprehensive health care coverage. The account consists of those deposits and any interest or other gain on the deposits. During the life of the employe or self-employed person, all moneys in the account may be used only to pay medical, dental or long-term care expenses of, or to purchase long-term care insurance for, the employe, or self-employed person, or a spouse or dependent of the employe or self-employed person.

Certain amounts that are contributed to such an account on behalf of an employe or self-employed person, his or her spouse and any other dependents are exempt from income taxation. All gains that accrue to such an account are also tax-exempt if the gains are redeposited into the account. The maximum tax-exempt amount that may be contributed to the account each year is \$2,000 for an individual, \$2,000 for his or her spouse and \$1,000 for each other dependent. These maximum amounts will be increased each year based on increases in the consumer price index.

If any amount is withdrawn from the account and is used for any purpose other than the allowed purposes, the account holder must pay a penalty equal to 10% of any accumulated interest, dividends or other gain that has accrued to the account from the time that the account was opened, except that this provision does not apply if the account holder or his or her spouse reaches the age of 59.5 years, if the balance in the account exceeds \$100,000 or after the death of the account holder. In addition, the account holder must pay taxes on any interest, dividends or other gain that accrues to the account in the year in which an improper withdrawal occurs.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.05 (6) (a) 19. of the statutes is created to read:

2 71.05 **(6)** (a) 19. Any accumulated interest, dividends or other gain that accrues
3 from an account described under s. 632.898 during the taxable year in which a
4 withdrawal occurs from such an account if any amount of the money or other assets
5 in the account is withdrawn for any reason other than the payment of medical, dental
6 or long-term medical care expenses or the purchase of long-term care insurance, as
7 defined in s. 146.91 (1), for the account holder, his or her spouse and all nonspouse
8 dependents as defined in s. 632.898 (1), except that this subdivision does not apply
9 after the death of the account holder.

10 **SECTION 2.** 71.05 (6) (b) 22. of the statutes is created to read:

11 71.05 **(6)** (b) 22. Any amount that is deposited by an employer on behalf of that
12 employer's employe, or by a self-employed person on his or her own behalf, in an

1 account described under s. 632.898, up to \$2,000 each year for an individual, up to
2 \$2,000 each year for his or her spouse and up to \$1,000 each year for each nonspouse
3 dependent, as defined in s. 632.898 (1), and any interest, dividends or other gain that
4 accrues in the account if the interest, dividends or other gain is redeposited in the
5 account, if the account is used exclusively to pay the medical, dental and long-term
6 care expenses of the individual, his or her spouse and each minor dependent, or to
7 purchase long-term care insurance, as defined in s. 146.91 (1) for such individuals.
8 The maximum amount of a deposit to an account that is created under this
9 subdivision shall be increased each year, beginning in 1998, by a percentage equal
10 to the percentage change between the U.S. consumer price index for all urban
11 consumers, U.S. city average, for the month of June of the current year and the U.S.
12 consumer price index for all urban consumers, U.S. city average, for the month of
13 June of the previous year, as determined by the U.S. department of labor. The revised
14 amounts shall be rounded to the nearest whole number. The department of revenue
15 shall adopt by rule the changes in dollar amounts required under this subdivision
16 every year, and incorporate the changes in the income tax forms and instructions.

17 **SECTION 3.** 71.07 (5) (a) 7. of the statutes is created to read:

18 71.07 (5) (a) 7. The amount claimed as a deduction for unreimbursed medical
19 expenses under section 213 (a) of the internal revenue code to the extent that the
20 funds used to pay for the unreimbursed expenses for which the deduction was
21 claimed were withdrawn from an account described under s. 71.05 (6) (b) 22.

22 **SECTION 4.** 71.10 (4) (j) of the statutes is created to read:

23 71.10 (4) (j) Any amount of money or other assets computed under sub. (10).

24 **SECTION 5.** 71.10 (10) of the statutes is created to read:

1 71.10 (10) MEDICAL SAVINGS ACCOUNT WITHDRAWALS. (a) Except as provided in
2 par. (b), if a person is required to add any amount to federal adjusted gross income
3 under s. 71.05 (6) (a) 19., the person shall pay an amount equal to 10% of any
4 accumulated interest, dividends or other gain that has accrued beginning on the date
5 on which the account was opened and ending on the date on which the withdrawal
6 from the account occurs that results in a person making a payment under s. 71.05
7 (6) (a) 19.

8 (b) The penalty under par. (a) does not apply and up to 25% of the balance in
9 the account described under s. 632.898 may be withdrawn each year if any of the
10 following occurs:

11 1. The account holder or his or her spouse reaches the age of 59.5 years during
12 the year in which the withdrawal occurs.

13 2. The balance in the account exceeds \$100,000.

14 **SECTION 6.** 632.898 of the statutes is created to read:

15 **632.898 Medical savings accounts. (1)** In this section, "dependent" has the
16 meaning given in s. 635.02 (3c).

17 **(2)** (a) An employer that, in providing health insurance coverage for its
18 employes, offers its employes a choice of either catastrophic or comprehensive health
19 care coverage may establish for an employe who chooses catastrophic health care
20 coverage a medical savings account.

21 (b) The account shall be established and held in the employe's name and shall
22 be the employe's property. Only an employer under par. (a), whether that employer
23 established the account or is a succeeding employer of an employe for whom a
24 medical savings account has been established, may make deposits in the medical
25 savings account of an employe who chooses catastrophic health care coverage. Such

1 an employer shall deposit in the account the difference between what the employer
2 pays on behalf of the employe, or the employe and his or her dependents, for the
3 catastrophic health care coverage and what the employer would pay on behalf of the
4 employe, or the employe and his or her dependents, for the comprehensive health
5 care coverage that the employer offers. Except as provided in sub. (4) (a), no other
6 deposits may be made in the account.

7 **(3)** A self-employed person who purchases catastrophic health care coverage
8 may establish a medical savings account in his or her name. Such a self-employed
9 person shall deposit in the account the difference between what the self-employed
10 person pays for the catastrophic health care coverage, including coverage for his or
11 her dependents, and what the self-employed person would pay for comprehensive
12 health care coverage, including coverage for his or her dependents. Except as
13 provided in sub. (4) (b), no other deposits may be made in the account.

14 **(4) (a)** If an employe with a medical savings account under this section becomes
15 self-employed and purchases catastrophic health care coverage, he or she may make
16 deposits in the account as provided in sub. (3).

17 **(b)** If a self-employed person with a medical savings account under this section
18 becomes employed by an employer described in sub. (2) (a) and chooses catastrophic
19 health care coverage, the employer may make deposits in the account as provided in
20 sub. (2) (b).

21 **(5)** Amounts deposited in an account under this section and any interest,
22 dividends or other gain that accrues on amounts deposited in the account may be
23 used only to pay medical, dental or long-term care expenses of the employe or
24 self-employed person, or any of the employe's or self-employed person's dependents,
25 or to purchase a long-term care insurance policy for the employe or self-employed

1 person, or any of the employe's or self-employed person's dependents. This
2 subsection does not apply after the death of the employe or self-employed person.

3 **SECTION 7. Initial applicability.**

4 (1) This act first applies to taxable years beginning on January 1, 1997.

5 (END)